

AMENDED IN ASSEMBLY MAY 6, 2009

AMENDED IN ASSEMBLY APRIL 13, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1351

Introduced by Assembly Member Blakeslee

February 27, 2009

An act to amend Section 399.12.5 of the Public Utilities Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1351, as amended, Blakeslee. Renewable energy resources.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations. The Public Utilities Act imposes various duties and responsibilities on the commission with respect to the purchase of electricity and requires the commission to review and adopt a procurement plan and a renewable energy procurement plan for each electrical corporation pursuant to the California Renewables Portfolio Standard Program. The program requires that a retail seller of electricity, including electrical corporations, community choice aggregators, and electric service providers, purchase a specified minimum percentage of electricity generated by eligible renewable energy resources, as defined, in any given year as a specified percentage of total kilowatthours sold to retail end-use customers each calendar year.

Under existing law, the incremental increase in the amount of electricity generated from a hydroelectric generation facility as a result of efficiency improvements at the facility is electricity from an eligible renewable resource for purposes of the California Renewables Portfolio

Standard Program if certain requirements are met. One of these requirements is that the hydroelectric generation facility has been certified by the State Water Resources Control Board pursuant to the federal Clean Water Act or by a regional board to which the board has delegated authority.

This bill would delete the requirement that a hydroelectric generation facility be certified by the board pursuant to the federal Clean Water Act and would instead allow a facility to meet the certification requirement if it is certified by any state board or agency pursuant to the federal Clean Water Act. *The bill would add a requirement that the facility be owned by a retail seller or local publicly owned electric utility.*

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 399.12.5 of the Public Utilities Code is
2 amended to read:
3 399.12.5. (a) Notwithstanding subdivision (c) of Section
4 399.12, a small hydroelectric generation facility that satisfies the
5 criteria for an eligible renewable energy resource pursuant to
6 Section 399.12 shall not lose its eligibility if efficiency
7 improvements undertaken after January 1, 2008, cause the
8 generating capacity of the facility to exceed 30 megawatts, and
9 the efficiency improvements do not result in an adverse impact on
10 instream beneficial uses or cause a change in the volume or timing
11 of streamflow. The entire generating capacity of the facility shall
12 be eligible.
13 (b) Notwithstanding subdivision (c) of Section 399.12, the
14 incremental increase in the amount of electricity generated from
15 a hydroelectric generation facility as a result of efficiency
16 improvements at the facility, is electricity from an eligible
17 renewable energy resource, without regard to the electrical output
18 of the facility, if all of the following conditions are met:
19 (1) The incremental increase is the result of efficiency
20 improvements from a retrofit that do not result in an adverse impact
21 on instream beneficial uses or cause a change in the volume or
22 timing of streamflow.

1 (2) The hydroelectric generation facility has, within the
2 immediately preceding 15 years, received certification from a state
3 board or agency pursuant to Section 401 of the Clean Water Act
4 (33 U.S.C. Sec. 1341), or has received certification from a regional
5 board to which the state board has delegated authority to issue
6 certification, unless the facility is not subject to certification
7 because there is no potential for discharge into waters of the United
8 States.

9 (3) The hydroelectric generation facility *is owned by a retail*
10 *seller or a local publicly owned electric utility*, was operational
11 prior to January 1, 2007, the efficiency improvements are initiated
12 on or after January 1, 2008, the efficiency improvements are not
13 the result of routine maintenance activities, as determined by the
14 Energy Commission, and the efficiency improvements were not
15 included in any resource plan sponsored by the facility owner prior
16 to January 1, 2008.

17 (4) All of the incremental increase in electricity resulting from
18 the efficiency improvements are demonstrated to result from a
19 long-term financial commitment by the retail seller or local publicly
20 owned electric utility. For purposes of this paragraph, “long-term
21 financial commitment” means either new ownership investment
22 in the facility by the retail seller or local publicly owned electric
23 utility or a new or renewed contract with a term of 10 or more
24 years, which includes procurement of the incremental generation.

25 (c) The incremental increase in the amount of electricity
26 generated from a hydroelectric generation facility as a result of
27 efficiency improvements at the facility are not eligible for
28 supplemental energy payments pursuant to the Renewable Energy
29 Resources Program (Chapter 8.6 (commencing with Section 25740)
30 of Division 15 of the Public Resources Code), or a successor
31 program.